

1-1 By: Kolkhorst, Schwertner S.B. No. 572
 1-2 (In the Senate - Filed February 1, 2019; February 21, 2019,
 1-3 read first time and referred to Committee on Health & Human
 1-4 Services; April 11, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 April 11, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 572 By: Kolkhorst

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of cottage food production operations.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Section 437.001, Health and Safety Code, is
 1-24 amended by amending Subdivision (2-b) and adding Subdivision (3-c)
 1-25 to read as follows:
 1-26 (2-b) "Cottage food production operation" means an
 1-27 individual, operating out of the individual's home, who:
 1-28 (A) produces at the individual's home, subject to
 1-29 Section 437.0196:
 1-30 (i) a baked good that is not a time and
 1-31 temperature control for safety [~~potentially hazardous~~] food, as
 1-32 defined by Section 437.0196;
 1-33 (ii) candy;
 1-34 (iii) coated and uncoated nuts;
 1-35 (iv) unroasted nut butters;
 1-36 (v) fruit butters;
 1-37 (vi) a canned jam or jelly;
 1-38 (vii) a fruit pie;
 1-39 (viii) dehydrated fruit or vegetables,
 1-40 including dried beans;
 1-41 (ix) popcorn and popcorn snacks;
 1-42 (x) cereal, including granola;
 1-43 (xi) dry mix;
 1-44 (xii) vinegar;
 1-45 (xiii) pickled fruit or vegetables,
 1-46 including pickled beets and carrots [~~pickles~~];
 1-47 (xiv) mustard;
 1-48 (xv) roasted coffee or dry tea; [~~or~~]
 1-49 (xvi) a dried herb or dried herb mix;
 1-50 (xvii) canned goods that are acidified;
 1-51 (xviii) fermented products;
 1-52 (xix) frozen fruit or vegetables; or
 1-53 (xx) any other food that is not a time and
 1-54 temperature control for safety food, as defined by Section
 1-55 437.0196;
 1-56 (B) has an annual gross income of \$50,000 or less
 1-57 from the sale of food described by Paragraph (A);
 1-58 (C) sells the foods produced under Paragraph (A)
 1-59 only directly to consumers [~~at the individual's home, a farmers'~~
 1-60 ~~market, a farm stand, or a municipal, county, or nonprofit fair,~~

2-1 ~~festival, or event]; and~~

2-2 (D) delivers products to the consumer at the
2-3 point of sale or another location designated by the consumer.

2-4 (3-c) "Fermented product" means a low-acid food product
2-5 subjected to the action of certain microorganisms that produce acid
2-6 during their growth and reduce the pH value of the food to 4.6 or
2-7 less.

2-8 SECTION 2. Section 437.0193, Health and Safety Code, is
2-9 amended by adding Subsection (d) to read as follows:

2-10 (d) A cottage food production operation that sells frozen
2-11 fruit or vegetables must include on the label of the frozen fruit or
2-12 vegetables or on an invoice or receipt provided with the frozen
2-13 fruit or vegetables when sold the following statement in at least
2-14 12-point font: "SAFE HANDLING INSTRUCTIONS: To prevent illness
2-15 from bacteria, keep this food refrigerated or frozen."

2-16 SECTION 3. Section 437.0194, Health and Safety Code, is
2-17 amended to read as follows:

2-18 Sec. 437.0194. CERTAIN SALES BY COTTAGE FOOD PRODUCTION
2-19 OPERATIONS PROHIBITED OR RESTRICTED. (a) A cottage food
2-20 production operation may not sell any of the foods described in
2-21 Section 437.001(2-b)(A) [+

2-22 ~~[(1) through the Internet;~~

2-23 ~~[(2) by mail order; or~~

2-24 ~~[(3)] at wholesale.~~

2-25 (b) A cottage food production operation may sell a food
2-26 described by Section 437.001(2-b)(A) through the Internet or by
2-27 mail order only if the consumer purchases the food through the
2-28 Internet or by mail order from the operation and the operator
2-29 personally delivers the food to the consumer.

2-30 SECTION 4. Chapter 437, Health and Safety Code, is amended
2-31 by adding Sections 437.01951 and 437.01952 to read as follows:

2-32 Sec. 437.01951. REQUIREMENTS FOR SALE OF FERMENTED PRODUCTS
2-33 AND ACIDIFIED CANNED GOODS. (a) A cottage food production
2-34 operation that sells to consumers fermented products or canned
2-35 goods that are acidified shall:

2-36 (1) use a recipe that:

2-37 (A) is from a source approved by the department;

2-38 or

2-39 (B) has been tested by an appropriately certified
2-40 laboratory and the laboratory confirmed that the finished product
2-41 or good has a pH value of 4.6 or less; or

2-42 (2) annually test the first batch of each recipe with a
2-43 calibrated pH meter to confirm that the finished product or good has
2-44 a pH value of 4.6 or less.

2-45 (b) The department shall:

2-46 (1) approve sources for recipes that a cottage food
2-47 production operation may use to produce fermented products or
2-48 canned goods that are acidified; and

2-49 (2) semiannually post on the department's Internet
2-50 website a list of the approved sources for recipes.

2-51 (c) The department shall develop and implement a process by
2-52 which an individual may request that the department approve an
2-53 additional source for recipes under Subsection (b). The process
2-54 must include:

2-55 (1) a method for an individual to submit a request to
2-56 the department;

2-57 (2) a time for the department to respond to the
2-58 request; and

2-59 (3) clear criteria for the department to evaluate
2-60 whether the department should approve a requested source.

2-61 (d) A cottage food production operation may not sell to
2-62 consumers fermented products or canned goods that are acidified
2-63 before the operator complies with Subsection (a).

2-64 Sec. 437.01952. REQUIREMENTS FOR SALE OF FROZEN FRUIT OR
2-65 VEGETABLES. A cottage food production operation that sells to
2-66 consumers frozen fruit or vegetables shall store and deliver the
2-67 frozen fruit or vegetables at an air temperature of not more than 32
2-68 degrees Fahrenheit.

2-69 SECTION 5. Section 437.0196, Health and Safety Code, is

